PART C
HAZARD COMMUNICATION

WAC

WAC 296-62-054 Manufacturers, importers and distributors--Hazard communication. Your responsibility: To ensure that the hazards of all chemicals produced or imported are evaluated and that information concerning their hazards is given to employers and employees.

Note: If you have employees exposed to the chemicals you produce, import or distribute, you must comply with "Chemical hazard communication rule" WAC 296-800-170.

Note: If you are an employer who relies on a material safety data sheet from the manufacturer, importer or distributor and you distribute or produce hazardous chemicals, you do not have to comply with this rule.

You must:

- Determine whether the chemicals you produce in your workplace or import are hazardous. *WAC 296-62-05402*.
- Use this criteria in making hazard determinations. *WAC 296-62-05404*.
- Determine whether the chemicals you produce or import are health hazards. *WAC 296-62-05406*.
- Obtain or develop a material safety data sheet for each hazardous chemical you produce or import. W*AC 296-62-05408.*
- Label clearly each container of hazardous chemicals that leaves your workplace. *WAC 296-62-05410*.
- Provide material safety data sheets. *WAC 296-62-05412.*

Application of this standard:

The Manufacturers, Importers, and Distributors Hazardous Communication Rule DOES NOT APPLY TO:

- Any hazardous waste as such term is defined by the Hazardous Waste Management Act chapter 70.105 RCW, when subject to regulations issued under that act by the department of ecology that describes specific safety, labeling, personnel training and other standards for the accumulation, handling and management of hazardous waste;
- Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that act by the Environmental Protection Agency;
- Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.9601 et seq.), when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with Environmental Protection Agency regulations;
- Tobacco or tobacco products;
- Wood or wood products, including lumber that will not be processed, where the chemical manufacturer or importer can establish that the only hazard they pose to the employees is the

potential for flammability or combustibility (wood or wood products that have been treated with hazardous chemicals covered by this standard, and wood that may be subsequently sawed or cut, generating dust, are not exempted);

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- Articles are manufactured items other than a fluid or particle:
  - ♦ That are formed to a specific shape or design during manufacture;
  - ♦ That have end use function(s) dependent in whole or in part upon their shape or design during end use; and
  - ♦ That under normal conditions of use do not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under the hazard determination section of this rule), and do not pose a physical hazard or health risk to employees.
- Food or alcoholic beverages that are sold, used, or prepared in a retail establishment (such as grocery store, restaurant, or drinking place), and foods intended for personal consumption by employees while in the workplace;
- Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (e.g., tablets or pills); drugs that are packaged by the chemical manufacturer for sale to consumers in a retail establishment (e.g., over-the-counter drugs); and drugs intended for personal consumption by employees while in the workplace (e.g., first aid supplies);
- Cosmetics that are packaged for sale to consumers in a retail establishment, and cosmetics intended for personal consumption by employees while in the workplace;
- Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substance Act (15 U.S.C. 1261 et seq.) respectively, where the employer can show that it is used in the workplace for the purpose intended by the chemical manufacturer or importer of the product, and the use results in a duration and frequency of exposure that is not greater than the range of exposures that could reasonably be experienced by consumers when used for the purpose intended;
- Ionizing and nonionizing radiation; and
- Biological hazards.

[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-054, filed 05/09/01, effective 09/01/01.

WAC 296-62-05402 Determine whether the chemicals you produce in your workplace or import are hazardous. Chemical manufacturers and importers must evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous.

Chemical manufacturers, importers or employers evaluating chemicals must identify and consider the available scientific evidence concerning physical and health hazards. For health hazards, evidence that is statistically significant and that is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this part. WAC 296-62-05406 must be consulted for the scope of health hazards covered, and WAC 296-62-05404 must be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

The chemical manufacturer, importer or employer evaluating chemicals must treat the following sources as establishing that the chemicals listed in them are hazardous:

- Chapter 296-62 WAC, General occupational health standards;
- 29 C.F.R. Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or
- *Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment*, American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).
- The chemical manufacturer, importer or employer is responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with this requirement of the standard.

Chemical manufacturers, importers and employers evaluating chemicals must treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

WAC 296-62-05402 (Cont.)

- National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);
- International Agency for Research on Cancer (IARC) Monographs (latest editions);
- Chapter 296-62 WAC, General occupational health standards; or
- 29 C.F.R. Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

Note: The Registry of Toxic Effects of Chemical Substances published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by the NTP or IARC to be a potential carcinogen.

The chemical manufacturer, importer or employer must determine the hazards of mixtures of chemicals as follows:

- If a mixture has been tested as a whole to determine its hazards, the results of such testing must be used to determine whether the mixture is hazardous;
- If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture must be assumed to present the same health hazards as do the components that comprise one percent (by weight or volume) or greater of the mixture, except that the mixture must be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater that is considered to be a carcinogen;
- If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and
- If the chemical manufacturer, importer, or employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less that 0.1 percent) could be released in concentrations that would exceed and established WISHA or OSHA permissible exposure limit or ACGIH threshold limit value, or could present a health risk to employees in those concentrations, the mixture must be assumed to present the same hazard.

Chemical manufacturers, importers, or employers evaluating chemicals must describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the director or his/her designee and the National Institute of Occupational Safety and Health (NIOSH). The written description may be incorporated into the written hazard communication program required under WAC 296-800-17005.
[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05402, filed 05/09/01, effective 09/01/01.

WAC 296-62-05404 Use these criteria in making hazard determinations. The hazard determination requirements of this standard is performance-oriented. Chemical manufacturers, importers, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, but they must be able to demonstrate that they have adequately ascertained the hazards of the chemicals produced or imported in accordance with the criteria set forth in this rule.

Hazard evaluation is a process that relies heavily on the professional judgment of the evaluator, particularly in the area of chronic hazards. The performance-orientation of the hazard determination does not diminish the duty of the chemical manufacturer, importer or employer to conduct a thorough evaluation, examining all relevant data and producing a scientifically defensible evaluation. For purposes of this standard, the following criteria shall be used in making hazard determinations that meet the requirements of this rule:

- Carcinogenicity: A determination by the National Toxicology Program, the International Agency for Research on Cancer, WISHA or OSHA that a chemical is a carcinogen or potential carcinogen will be considered conclusive evidence for purposes of this part. In addition, however, all available scientific data on carcinogenicity must be evaluated in accordance with the provisions of the requirements of this rule.

- Human data: Where available, epidemiological studies and case reports of adverse health effects shall be considered in the evaluation.

WAC 296-62-05404 (Cont.)

- Animal data: Human evidence of health effects in exposed populations is generally not available for the majority of chemicals produced or used in the workplace. Therefore, the available results of toxicological testing in animal populations shall be used to predict the health effects that may be experienced by exposed workers. In particular, the definitions of certain acute hazards refer to specific animal testing results.
- Adequacy and reporting of data: The results of any studies that are designed and conducted according to established scientific principles, and that report statistically significant conclusions regarding the health effects of a chemical, shall be a sufficient basis for a hazard determination and reported on any material safety data sheet. In vitro studies alone generally do not form the basis for a definitive finding of a hazard under the hazard communication standard since they have a positive or negative result rather than a statistically significant finding.

The chemical manufacturer, importer, or employer may also report the results of other scientifically valid studies that tend to refute the findings of hazard.
[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05404, filed 05/09/01, effective 09/01/01.

WAC 296-62-05406 Determine whether the chemicals you produce or import are health hazards.
Although safety hazards related to the physical characteristics of a chemical can be objectively defined in terms of testing requirements (e.g., flammability), health hazard definitions are less precise and more subjective. Health hazards may cause measurable changes in the body -- such as decreased pulmonary function. These changes are generally indicated by the occurrence of signs and symptoms in the exposed employees -- such as shortness of breath, a nonmeasurable, subjective feeling. Employees exposed to such hazards must be apprised of both the changes in body function and the signs and symptoms that may occur to signal that change.

The determination of occupational health hazards is complicated by the fact that many of the effects or signs and symptoms occur commonly in nonoccupationally exposed populations, so that effects of exposure are difficult to separate from normally occurring illnesses. Occasionally, a substance causes an effect that is rarely seen in the population at large, such as angiosarcomas caused by vinyl chloride exposure, thus making it easier to ascertain that the occupational exposure was the primary causative factor. More often, however, the effects are common, such as lung cancer. The situation is further complicated by the fact that most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects.

There have been many attempts to categorize effects and to define them in various ways. Generally, the terms “acute” and “chronic” are used to delineate between effects on the basis of severity or duration. “Acute” effects usually occur rapidly as a result of short-term exposures, and are of short duration. “Chronic” effects generally occur as a result of long-term exposure, and are of long duration.

The acute effects referred to most frequently are those defined by the American National Standards Institute (ANSI) standard for Precautionary Labeling of Hazardous Industrial Chemicals (Z129.1-1988) -- irritation, corrosivity, sensitization and lethal dose. Although these are important health effects, they do not adequately cover the considerable range of acute effects that may occur as a result of occupational exposure, such as, for example, narcosis.

Similarly, the term chronic effect is often used to cover only carcinogenicity, teratogenicity, and mutagenicity. These effects are obviously a concern in the workplace, but again, do not adequately cover the area of chronic effects, excluding, for example, blood dyscrasias (such as anemia), chronic bronchitis and liver atrophy.

The goal of defining precisely, in measurable terms, every possible health effect that may occur in the workplace as a result of chemical exposures cannot realistically be accomplished. This does not negate the need for employees to be informed of such effects and protected from them.

WAC 296-62-05404 outlines the principles and procedures of hazard assessment.

WAC 296-62-05406 (Cont.)

For the purposes of this part, any chemicals that meet any of the following definitions, as determined by the criteria set forth in WAC 296-62-05404, are health hazards. However, this is not intended to be an exclusive categorization scheme. If there are available scientific data that involve other animal species or test methods, they must also be evaluated to determine the applicability of the hazard communication rule:

- **Carcinogen:** A chemical is considered to be a carcinogen if:
  - ♦ If it has been evaluated by the International Agency for Research on Cancer (IARC), and found to be a carcinogen or potential carcinogen; or
  - ♦ It is listed as a carcinogen or potential carcinogen in the Annual Report on Carcinogens published by the National Toxicology Program (NTP) (latest edition); or
  - ♦ It is regulated by WISHA as a carcinogen.
- **Corrosive:** A chemical that causes visible destruction of, or irreversible alterations in, living tissue by chemical action at the site of contact. For example, a chemical is considered to be corrosive if, when tested on the intact skin of albino rabbits by the method described by the U.S. Department of Transportation in Appendix A to 49 C.F.R. Part 173, it destroys or changes irreversibly the structure of the tissue at the site of contact following an exposure period of four hours. This term must not refer to action on inanimate surfaces.
- **Highly Toxic:** A chemical falling within any of the following categories:
  - ♦ A chemical that has a median lethal dose (LD_{50}) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
  - ♦ A chemical that has a median lethal dose (LD_{50}) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.
  - ♦ A chemical that has a median lethal concentration of (LC_{50}) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.
- **Irritant:** A chemical, which is not corrosive, but that causes a reversible inflammatory effect on living tissue by chemical action at the site of contact. A chemical is a skin irritant if, when tested on the intact skin of albino rabbits by the methods of 16 C.F.R. 1500.41 for four hours exposure or by other appropriate techniques, it results in an empirical score of five or more. A chemical is an eye irritant if so determined under the procedure listed in 16 C.F.R. 1500.42 or other appropriate techniques.
- **Sensitizer:** A chemical that causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure to the chemical.
- **Toxic:** A chemical falling within any of the following categories:
  - ♦ A chemical that has a median lethal dose (LD_{50}) of more than 50 milligrams per kilogram but note more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
  - ♦ A chemical that has a median lethal dose (LD_{50}) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.
  - ♦ A chemical that has a median lethal concentration (LC_{50}) in air of more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

WAC 296-62-05406 (Cont.)

- **Target organ effects:** The following is a target organ categorization of effects that may occur, including examples of signs and symptoms and chemicals that have been found to cause such effects. These examples are presented to illustrate the range and diversity of effects and hazards found in the workplace, and the broad scope employers must consider in this area, but are not intended to be all-inclusive:

(a)	Hepatotoxins:	Chemicals that produce liver damage.
	Signs & symptoms:	Jaundice, liver enlargement.
	Chemicals:	Carbon tetrachloride, nitrosamines.
(b)	Nephrotoxins:	Chemicals that produce kidney damage.
	Signs & symptoms:	Edema; proteinuria.
	Chemicals:	Halogenated hydrocarbons; uranium.
(c)	Neurotoxins:	Chemicals that produce their primary toxic effects on the nervous system.
	Signs & symptoms:	Narcosis; behavioral changes; decrease in motor functions.
	Chemicals:	Mercury, carbon disulfide.
(d)	Agents that act on the blood or hematopoietic system:	Decrease hemoglobin function; deprive the body of oxygen.
	Signs & symptoms:	Cyanosis; loss of consciousness.
	Chemicals:	Carbon monoxide; cyanides.
(e)	Agents that damage the lung:	Chemicals that irritate or damage the pulmonary tissue.
	Signs & symptoms:	Cough; tightness in chest; shortness of breath.
	Chemicals:	Silica, asbestos.
(f)	Reproductive toxins:	Chemicals that affect the reproductive capabilities including chromosomal damage (mutations) and effects on fetuses (teratogenesis).
	Signs & symptoms:	Birth defects; sterility.
	Chemicals:	Lead; DBCP.
(g)	Cutaneous hazards:	Chemicals that affect the dermal layer of the body.
	Signs & symptoms:	Defatting of the skin; rashes; irritation.
	Chemicals:	Ketones; chlorinated compounds.
(h)	Eye hazards:	Chemicals that affect the eye or visual capacity.
	Signs & symptoms	Conjunctivitis; corneal damage.
	Chemicals:	Organic solvents; acids.

[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05406, filed 05/09/01, effective 09/01/01.

WAC 296-62-05408 Obtain or develop a material safety data sheet for each hazardous chemical you produce or import. Chemical manufacturers and importers must obtain or develop a material safety data sheet (MSDS) for each hazardous chemical they produce or import.

Each material safety data sheet must be in English (although the employer may maintain copies in other languages) and must contain at least the following information:

- The identity used on the label, and, except as provided for in the trade secrets rule, WAC 296-62-053:

WAC 296-62-05408 (Cont.)

- If the hazardous chemical is a single substance, its chemical and common name(s);
- If the hazardous chemical is a mixture that has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients that contribute to these known hazards, and the common name(s) of the mixture itself; or
- If the hazardous chemical is a mixture that has not been tested as a whole:
  - (A) The chemical and common name(s) of all ingredients that have been determined to be health hazards, and that comprise 1% or greater of the composition, except that chemicals identified as carcinogens under "*Determine whether the chemicals you produce in your workplace or import are hazardous*" section in "Manufactures, importers and distributors, chemical hazard communication ,"
    WAC 296-62-05401, shall be listed if the concentrations are 0.1% or greater; and
  - (B) The chemical and common name(s) of all ingredients that have been determined to be health hazards, and that comprise less than one percent (0.1% for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations that would exceed and established WISHA or OSHA permissible exposure limit or ACGIH threshold limit value, or could present a health risk to employees; and
  - (C) The chemical and common name(s) of all ingredients that have been determined to present a physical hazard when present in the mixture.

- Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);
- The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;
- The acute and chronic health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions that are generally recognized as being aggravated by exposure to the chemical;
- The primary route(s) of entry;
- The WISHA or OSHA permissible exposure limit, ACGIH threshold limit value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet (the PELs and TLVs include the 8-hour TWA, STEL, ceiling value and skin notation where available);
- Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by WISHA or OSHA;
- Any generally applicable precautions for safe handling and use that are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;
- Any generally applicable control measures that are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;
- Emergency and first aid procedures;
- The date of preparation of the material safety data sheet or the last change to it; and
- The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet must mark it to indicate that no applicable information was found.

WAC 296-62-05408 (Cont.)

Where complex mixtures have similar hazards and contents (i.e., the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

The chemical manufacturer, importer or employer preparing the material safety data sheet must ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information must be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported, the chemical manufacturer or importer must add the information to the material safety data sheet before the chemical is introduced into the workplace again.
[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05408, filed 05/09/01, effective 09/01/01.

WAC 296-62-05410 Label clearly each container of hazardous chemicals that leaves your workplace. The chemical manufacturer, importer, or distributor must ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

- Identity of the hazardous chemical(s);
- Appropriate hazard warnings; and
- Name and address of the chemical manufacturer, importer, or other responsible party.

For solid metal (such as a steel beam or metal casting), solid wood, or plastic items that are not exempted as articles due to their downstream use, or shipments of whole grain, the required labels may be:

- Transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes;
- Transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided to or at the time of the first shipment; and
- This exception to requiring labels on every container of hazardous chemicals is only for the solid material itself and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the material and to that which employees handling the items in transit may be exposed (for example, cutting fluids or pesticides in grain).

Chemical manufacturers, importers, or distributors must ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this part in a manner that does not conflict with the requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and regulations issued under that act by the department of transportation.

If the hazardous chemical is regulated by WISHA or OSHA in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer must ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this part if existing labels already convey the required information.

Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical must revise the labels for the chemical within three months of becoming aware of the new information. Labels on containers of hazardous chemicals shipped after that time must contain the new information. If the chemical is not currently produced or imported, the chemical manufacturer, importer, distributor, or employer must add the information to the label before the chemical is shipped or introduced into the workplace again.

WAC 296-62-05410 (Cont.)

Retention of DOT markings, placards and labels:

- Any employer who receives a package of hazardous material that is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 C.F.R. Parts 171 through 180) must retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.
- Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations must retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials that require the marking or placarding are sufficiently removed to prevent any potential hazards.
- Markings, placards and labels must be maintained in a manner that ensures that they are readily visible.
- For nonbulk packages that will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with this rule.
- For the purposes of this section, the term "**hazardous material"** and any other terms not defined in this section have the same definition as in the Hazardous Materials Regulations (49 C.F.R. Parts 171 through 180).

The hazard communication rule does not require labeling of the following chemicals:

- Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when subject to the labeling requirements of that act and labeling regulations issued under that act by the Environmental Protection Agency;
- Any chemical substance or mixture as such terms are defined in the Toxic Substance Control Act (15 U.S.C. 2601 et seq.), when subject to the labeling requirements of that act and labeling requirements issued under that act by the Environmental Protection Agency;
- Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device or product, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Virus-Serum Toxin Act of 1913 (21 U.S.C. 151 et seq.) and regulations issued under those acts, when they are subject to the labeling requirements under those acts by either the Food and Drug Administration or the department of agriculture;
- Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under that act, when subject to the labeling requirements of that act and labeling regulations issued under that act by the Bureau of Alcohol, Tobacco, and Firearms;
- Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substance Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those acts, or regulations issued under those acts by the Consumer Product Safety Commission; and
- Agricultural or vegetable seed treated with pesticides and labeled in accordance with the Federal Seed Act (7 U.S.C. 1551 et seq.) and the labeling requirements issued under that act by the department of agriculture.

[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05410, filed 05/09/01, effective 09/01/01.

WAC 296-62-05412 Provide material safety data sheets. Chemical manufacturers or importers must:

- Ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated;

- Either provide material safety data sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment;

WAC 296-62-05412 (Cont.)

- If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer must obtain one from the chemical manufacturer or importer as soon as possible; and
- Also, provide distributors or employers with a material safety data sheet upon request.

Distributors must:

- Ensure that material safety data sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated;
- Either provide material safety data sheets with the shipped containers, or sent them to the other distributor or employer prior to or at the time of the shipment;
- If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor must obtain one from the chemical manufacturer or importer as soon as possible.

Retailers selling hazardous chemicals to employers having a commercial account must provide a material safety data sheet to such employers upon request, and must post a sign or otherwise inform them that a material safety data sheet is available.

Wholesale distributors selling hazardous chemicals to employers over-the-counter may also provide material safety data sheets upon request of the employer at the time of the over-the-counter purchase, and must post a sign or otherwise inform such employers that a material safety data sheet is available.

If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have material safety data sheets on file (i.e., the retail distributor does not have a commercial account and does not use the materials), the retail distributor must provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained.

Wholesale distributors must also provide material safety data sheets to employers or other distributors upon request.

Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors that have informed them that the retail distributor does not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

[Statutory Authority: RCW 49.17.101, .040, .050. 01-11-038 (Order 99-36), § 296-62-05412, filed 05/09/01, effective 09/01/01.